



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 18, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: *RRB* Robert Raben
Assistant Attorney General

SUBJECT: Weekly Report for December 18, 2000 - December 22, 2000

On December 15, the 106th Congress adjourned. The House and the Senate will convene the 107th Congress on January 3, 2001.

THE WEEK AHEAD

Election law: On December 20, representatives of OLA and the Criminal Division's Public Integrity and Computer Crime and Intellectual Property Sections will brief Senate Judiciary Committee staff on the scope of current federal criminal statutes applicable to election fraud. (Tanner)

Wen Ho Lee: Draft responses to questions for the record from Senator Leahy, in follow up of the September 26 and 27 hearings, are being prepared by the Criminal Division. A draft response to the Intelligence Committees and the Senate Judiciary Committee on conditions of confinement is being finalized in consultation with the Marshals Service. Responses to document requests for sealed records and deliberative materials are being deferred until after conclusion of the debrief; Committee staff have been informed of this. Senator Specter's staff have requested access to the underlying documents used to prepare the Bellows report. Further hearings, if any, will be deferred until after the debriefings are completed. (Walter)

GAO Review of Offices of Professional Responsibility: Senator Thurmond, as Chairman of the Senate Judiciary Subcommittee on Criminal Justice Oversight, asked the General Accounting Office (GAO) to conduct a review of the operations and policies in the Offices of Professional Responsibility (OPR) at both the FBI and Main Justice, focusing on OPR activities pertaining to a pending criminal investigation in Boston. We have advised the Subcommittee staff that the OPR report on the matter is under seal by the Court in Boston and that the reasons for the seal, which pertain to the pending criminal investigation, remain. We are furnishing GAO staff with publicly available documents about the investigation, including indictments and judicial opinions in related cases, which we hope will assist them in persuading the Subcommittee to hold off on the inquiry at this time. (Burton)

FOIA Request Regarding Our Communications with the House Ethics Committee: We have been notified that congressional periodical, Roll Call, has requested DOJ records, including

OLA attorney notes, regarding our communications with the House Ethics Committee over the past two years about a pending criminal investigation in Boston and a related investigation of the House Ethics Committee about Congressman Bud Shuster. [REDACTED]

[REDACTED] On December 6, 2000, we reviewed the relevant documents with staff from the Office of Information and Privacy about FOIA and believe that we have reached tentative conclusions about how the statute should be applied to protect our interests. We have so advised Committee staff of our tentative conclusions and will continue to coordinate with them about the matter. (Burton)

Leak prosecutions: Senator Shelby dropped his attempt to include the leak prosecution provision in the renewed attempt to pass the Intelligence Authorization bill for 2001. The bill, without the leak provision, has passed both the Senate and House and is ready for the President's signature. Senator Shelby intends to pursue a leak prosecution statute again in the next Congress. (Walter)

THE WEEK IN REVIEW

Nominations: On December 15, the Senate confirmed the following nominations: Daniel Marcus, to be Associate Attorney General; Glenn A. Fine, to be Inspector General; Randolph D. Moss, to be Assistant Attorney General of the Office of Legal Counsel; David W. Ogden, to be Assistant Attorney General of the Civil Division; and Loretta E. Lynch, to be United States Attorney for the Eastern District of New York. Also on December 15, the Senate received the nomination of Julie E. Samuels, to be Director of the National Institute of Justice. (Scott-Finan)

Security Incidents: On December 13, JMD and OLA representatives met with staff from the House Judiciary Committee about follow up questions from the September 21st hearing regarding the Inspector General's Report on misconduct and mismanagement at ICITAP, OPDAT and the Criminal Division's Office of Administration. Our answer to one of the follow up questions indicated that there had been 53 compromises of classified information under the Department's control over the past six years. In fact, as we explained to staff in the meeting, there have been 53 instances during that period in which Department personnel failed to comply with the rules and regulations regarding the handling of classified information, but only a small fraction of those involved any probable compromise of the information. While the Committee's hearing record with our original answer has already been printed, we will prepare a supplemental letter to the Committee clarifying the relevant facts, which both the Department and the Committee can disclose in response to any press inquiries that may ensue following disclosure of the hearing record. (Burton)

Torres Martinez: On December 11, the Senate passed H.R. 5528, the "Omnibus Indian Advancement Act." This omnibus bill contains a provision which ratified a settlement agreement between the United States and the Torres Martinez Desert Cahuilla Indians, which is fully supported by the Departments of Justice and Interior. H.R. 5528 had passed the House on October 26, 2000. (Pearlman)